

REMARKS/ARGUMENTS

In the Office Action mailed July 29, 2008 (hereinafter, "Office Action"), claims 1-9, 11-19 and 21-29 stand rejected under 35 U.S.C. § 102. Claims 1, 7-9, 11, 17-19, 21, and 27-29 have been amended. Claims 10, 20, and 30 have been canceled.

Applicant respectfully responds to the Office Action.

I. Claims 1-9, 11-19 and 21-29 Rejected Under 35 U.S.C. § 102(e)

Claims 1-9, 11-19 and 21-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0036469 to Wentink (hereinafter, "Wentink"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicant respectfully submits that the claims at issue are patentably distinct from Wentink. Wentink does not disclose all of the subject matter in these claims.

Claim 1 has been amended to recite "determining that a number of consecutive frames generated at the first wireless station have a same destination address and exceed a threshold value." This amendment is supported by at least paragraphs 50 and 51 of the Applicant's specification. The Office Action asserts that Wentink discloses this claim subject matter. (Office Action, page 5.) Applicant respectfully disagrees.

Instead, Wentink discloses "[a] direct link setup between two or more wireless devices using an access point, where the direct link setup is conducted over a base channel and the direct link is established on a parallel channel. (Wentink, abstract.) Furthermore, "[t]o initiate a direct link on a

channel other than the base channel used by the [access point], one of the wireless devices may transmit a setup request frame to the access point on the base channel for forwarding to the wireless device.” (Wentink, page 4, par. [0034].) This “setup request frame” may include “one or more indicators associated with a proposed channel, such as, for example, the center frequency and channel width of the proposed channel or a low frequency and a high frequency of the proposed channel.” (Wentink, page 4, par. [0034].) Lastly, “[u]pon receipt of the setup request frame, the wireless device may consider the proposal [in the setup request] to establish a direct link on the proposed channel.” This is not the same as claim 1. Specifically, there is no mention of “consecutive frames generated at the first wireless station,” especially “a number of consecutive frames” that “exceed a threshold value.” Rather, Wentink only discloses a single “setup request frame,” not “consecutive frames.” Likewise, there is no mention of a “threshold value” in relation to a “number of consecutive frames” in Wentink. In contrast, claim 1 discloses “determining that a number of consecutive frames...exceed a threshold value.” Thus, since Wentink does not disclose “a number of consecutive frames” that both “have a same destination address” and “exceed a threshold value,” Wentink does not disclose the claimed subject matter.

Claim 1 has been amended to recite “establishing the direct link with the second wireless station on a direct link frequency channel that is different than the infrastructure frequency channel based on the determination.” This amendment is supported by at least paragraphs 50 and 51 of Applicant’s specification. Wentink does not disclose this.

Instead, Wentink discloses that “[t]he direct link may be established on parallel channel for any of a variety of reasons, such as to reduce bandwidth congestion by using multiple channels to transmit information or to reduce latency in the transmission of information between wireless devices.” (Wentink page 3, par. [0028].) Thus, as best understood, the “direct link” is established based on a desire “to reduce bandwidth congestion” or “to reduce latency in the transmission of information.” There is no mention of “consecutive frames” that “exceed a threshold value.” In contrast, claim 1 discloses “establishing the direct link...based on the determination” that “a number of consecutive frames...exceed a threshold value.” In other words, the “direct link” is established in

claim 1 “based on the determination,” while the “direct link” in Wentink is not. In fact, the “setup request frame” is “a proposal to establish a direct link on another channel.” (Wentink, page 4, par. [0034].) So, the “setup request frame” is part of the “establishing” itself, and is not done “based on the determination.” Thus, Wentink does not disclose the claimed subject matter.

In view of the foregoing, Applicant respectfully submits that claim 1 is patentably distinct from Wentink. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn because Wentink does not disclose all of the subject matter of claim 1.

Claims 2-7 depend either directly or indirectly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 2-7 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

Claims 8, 11, 18, 21 and 28 have been amended to include subject matter similar to the subject matter of claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 8, 11, 18, 21 and 28 be withdrawn for at least the same reasons as those presented above in connection with claim 1.

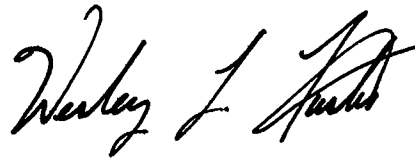
Claim 9 depends directly from claim 8. Claims 12-17 depend either directly or indirectly from claim 11. Claim 19 depends directly from claim 18. Claims 22-27 depend either directly or indirectly from claim 21. Claim 29 depends directly from claim 28. Accordingly, Applicant respectfully requests that the rejection of claims 9, 12-17, 19, 22-27 and 29 be withdrawn.

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Amdt. dated October 29, 2008
Reply to Office Action of July 29, 2008

II. Conclusion

Applicant respectfully asserts that all pending claims are patentably distinct from the cited references, and requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wesley L. Austin". The signature is fluid and cursive, with the first name "Wesley" being the most prominent.

/Wesley L. Austin/

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